

Remarks

Claims 1-20 are currently pending. Claims 1 and 17 are amended while claim 19 has been cancelled and new claim 21 has been added. Claims 1-4, 6-9, 17, 18 and 20 were elected in response to a restriction requirement and claims 5, 10-16, and 19 were subsequently withdrawn. Applicants assert that claims 1-4, 6-9, 17, 18 and 20 are now in condition for allowance as set forth more fully below. Furthermore, as generic base claims are allowable, claims depending therefrom are allowable as well such that claims 5, 18, and 20 should be reintroduced for examination.

Interview Summary

The undersigned participated in a telephone interview with the Examiner on April 18, 2005. During the interview, salient differences between the claimed invention and the Page reference were reviewed. Namely, it was emphasized that Page teaches a specialized device with a hook tip bent forward specifically designed to engage the fold of a bowler hat and an interstitial space between the hook tip and the shank so that the hat could not be disengaged unless the process used for engaging the hat with the hook was reversed. It was pointed out that disclosures of the present application do not rely on the tip of the hook being bent and approaching the shank in a curved manner. Instead, it was discussed that the present application provides for the tip to be a straight portion that approaches the shank perpendicularly. It was further discussed that the present application provides for the threads, barbs, or other means of attaching the securing device were formed on the tip of the shank itself, as opposed to using a plate and separate screws for mounting. The Examiner requested that clarifying amendments and arguments be submitted in writing. Further, the Examiner, pointed out the Corscaden patent, a reference of record, that was not relied upon in the Office Action and suggested that this reference also be addressed relative to amended claim 17 in order to expedite the examination.

102 Rejections

The Office Action is ambiguous as to the section under §102 being referred to due to a typographical error, but Applicants assume that the Office Action is rejecting claims

1-4, 6-9, 17, 18 and 20 under 35 USC §102(b) as being anticipated by Page (US Pat 908,320). In any event, applicants respectfully traverse these rejections.

Claims 1-4 and 6-9

The Office Action rejects independent claim 1 by stating that Page teaches all of its elements. The Office Action equates the spirally and rearwardly curved hook having an upwardly extended thin flat tip (3-4) in FIG. 5 of Page to the second support member as recited in amended claim 1. The Page reference goes on to describe the essential feature of that invention as presenting a thin upwardly and slightly forward (Col. 2, l 54-57) extending end with a very narrow space between the tip of such end and the shank (Col. 1, l 20-21) such that it just passes the brim of a bowler hat (Col. 1, l. 44-50). The Page hat hook was designed to support a bowler hat on and only on the upwardly extended thin flat tip (3-4)

Claim 1 has been amended to clarify the structure of the claimed invention and now more clearly recites a rigid second support member, having a proximate end and a blunt distal end, the proximate end being attached to the second end of the shank wherefrom the second support member is initially bent perpendicularly to the shank in a direction substantially opposite the first support member and radially towards the shank forming a partial loop wherein the partial loop terminates with a straight residual portion of the distal end in a position pointing towards, perpendicular to, and in the same plane as the shank leaving a gap between the distal end and the shank.

Page fails to disclose these recitations since Page teaches that the actual supporting surface of the hat hook to be the thin flat tip (3-4) curved slightly forward (See Col. 1, l. 40-45; Col 2, l -58) rather than having a straight portion that approaches the shank perpendicularly. Accordingly, claim 1 includes elements not disclosed by Page. As such, claim 1 is allowable over Page for at least these reasons.

Dependent claims 2-4 and 6-9 depend from an allowable claim 1 and are also allowable over Page for at least the same reasons.

It would also not be obvious to one skilled in the art to modify Page to use a straight tip approaching the shank perpendicularly rather than a slightly outwardly curved tip 4 because the straight tip would not be conformed to fit into the fold of a bowler hat

causing the hat to easily fall off the hook. Page specifically discloses (See Col. 2 l. 54-60) that the tip must be curved to allow the fold of the brim of the hat to be placed onto and off of the tip.

As such, there is no express or implied teaching, suggestion or motivation to use Page in the context of the claimed invention, *In Re Dembiczak*, 175 F.3d 994, 50 U.S.P.Q.2D (BNA) 1614 (Fed. Cir. 1999) (Placing a pumpkin face on an orange trashbag not obvious under 35USC§103 without finding of suggestion, teaching or motivation in the reference); *SIBIA Neurosciences, Inc. v. Cadus Pharm. Corp.*, 225 F.3d 1349, 55 U.S.P.Q.2D (BNA) 1927 (Fed. Cir. 2000)(Suggestion or motivation to modify a single reference required for obviousness rejection) nor that such teachings would be reasonably successful, *Brown & Williamson Tobacco Corp. v. Phillip Morris, Inc.*, 229 F.3d 1120, 56 U.S.P.Q.2D (BNA) 1456 (Fed. Cir. 2000). An argument based on the theory that “it was obvious to try” fails as an obviousness rejection. *In re Fine*, 837 F.2d 1071, U.S.P.Q.2D 1596 (Fed. Cir 1988).

Furthermore, Page teaches an attaching piece 1 used to attach the shank to a surface with small screws. Such an attaching piece thus taught would frustrate the use of threads set around the exterior of the first end of the shank for inserting and securing the first end into a surface as generally recited in amended claim 1. For these further reasons, Page teaches away from the claims and the claims would not be obvious in light of Page.

Claims 17, 18 and 21

The Office Action rejects Claim 17 by stating that Page teaches all of its elements. The Office Action equates the phrase “screws through the attaching piece” 1 to the means for securing the device into a pole disposed at the first end of the shank as recited in claim 17. However, amended Claim 17 now recites, in part, a rigid shank having a first end with a tip and a second end and a means for securing the device into a surface formed on the outer surface of the tip of the first end of the shank. Page does not teach the use of threads or any other means of attachment on the tip of the shank and the concept does not appear anywhere in the Page reference, specially since Page does not even disclose a tip on the shank but discloses a plate shaped attaching piece 1. The

Office Actions appears to gratuitously assume that the attaching piece **1** is equipped with threads because FIG.5 shows the attaching piece being attached to a surface with screws.

Dependent claims 18 and 20 and new claim 21 depend from an allowable claim 17 and are also allowable over Page for at least the same reasons. Furthermore, new claim 21 recites additional features that are patentable over Page. For example, claim 21 includes recitations similar to those of claim 1 regarding the second support member. Claim 21 recites that the second support member is initially bent perpendicularly to the shank in a direction substantially opposite the first support member and circularly towards the shank forming a partial loop wherein the partial loop terminates with a straight residual portion of the distal end in a position pointing towards, perpendicular to, and in the same plane as the shank leaving a gap between the distal end and the shank. Thus, claim 21 is also allowable over Page for the same reasons discussed above in relation to claim 1.

Corscaden (US Patent 479,058)

In its conclusion, the Office Action makes reference to a patent to Corscaden (US Patent 479,058) as a reference of record that was not relied upon. At the suggestion of the Examiner, the applicants address the Corscaden reference as well. The Examiner pointed out, in relation to amended claim 17, that Corscaden taught a device with threads disposed on the outer surface of one end to be used to secure the device into a wall. He also pointed out that there was a hook **19/11** attached to that threaded end. The Examiner thought that the claimed securing device would be obvious over Page in view of Corscaden.

The applicants make several observations and would like to make the following points. First, although Figs. 4 and 5 of Corscaden teach a threaded end **18** for attaching the hat hook to a wall, the attached hook **19/11**, is curved in an opposite direction and is disposed at the opposite end of the shank from that in the Page device. Corscaden has the distal end **19** facing away from the wall with the arcuate portion of the hook, explicitly designed to rest against the wall and be a brace (See Col. 1, l. 50). Corscaden teaches that an embodiment could do away with a long distal end but teaches that the arcuate portion always remains as a brace (Col. 2, l. 62-65). Such a brace would lessen the

horizontal and vertical forces on the threaded end embedded in the wall making it less likely to be pulled from the wall or the hook portion 12 from bending.

Page does not teach the use of an arcuate brace or any other type of salient bracing member for support. However, as evidence of a need for support, Page teaches the use of a mounting plate with several screws. Because the purpose of page is to hang a bowler hat by the brim, the hook 3 in Page must curve in the opposite direction from that taught in Corscaden in order to function properly and therefore can not act as a brace. Replacing the mounting plate of Page with a threaded tip in Corscaden would not provide support either by a plate or an arcuate member. Therefore, Corscaden teaches away from Page and there would be no suggestion or motivation to combine the body member 2 of Page and the screw threaded shank 18 of Corscaden.

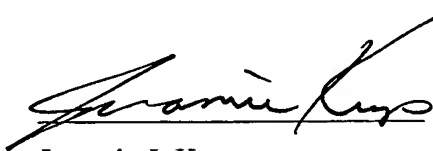
Conclusion

Applicants assert that the application including claims 1-4, 6-9, 17, 18 and 20 is in condition for allowance. Applicants request reconsideration in view of the amendment and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: May 5, 2005



Jeramie J. Keys
Reg. No. 42,724

Withers & Keys, LLC
P.O. Box 71355
Marietta, Ga 30007-1355
(404) 849.2093